

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- x
MICHAEL WARREN and EVELYN WARREN, x
Plaintiffs, x
-against- x
x
THE CITY OF NEW YORK, a municipal entity; x
NEW YORK CITY POLICE COMMISSIONER x 08-CV-3815 (ARR) (RER)
RAYMOND KELLY; NEW YORK CITY x
POLICE SERGEANT STEVEN TALVY x
(Shield No. 5408); NEW YORK CITY POLICE x
OFFICER JOSEPH TILLOTSON x
(Shield No. 30215); NEW YORK CITY POLICE x
OFFICER JOHN ACCONI (Shield No. 5075); x
NEW YORK CITY POLICE OFFICER x
MIRABEL SARANTE (Shield No. 10211), x
NEW YORK CITY POLICE OFFICER x
ANTHONY CAROZZA (Shield No. 16222), x
individually and in their official capacities; and x
JOHN DOES 1-10, New York City Police x
Officers, Supervisors and/or Commanders, x
individually and in their official capacities, x
Defendants. x
----- x

**JOINT PRETRIAL ORDER
(PROPOSED)**

A. Parties and Counsel

Plaintiff's counsel

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Defendants' counsel

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B. Jurisdiction

Plaintiff's Brief Statement as to the Presence of and Basis of Subject Matter Jurisdiction

Subject Matter Jurisdiction is conferred upon this Court by 28 U.S.C. §§1331 and 1343 (3) and (4), as this action seeks redress for the violation of plaintiffs constitutional and civil rights. This Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1337(a), over any and all state constitutional and state law claims that are so related to the claims within the original jurisdiction of this Court that they form part of the same case or controversy.

Defendant's Brief Statement as to the Presence of Subject Matter Jurisdiction:

Defendants agree that the court has subject matter jurisdiction over this lawsuit pursuant to 28 U.S.C. §§ 1331, 1343 and 1337.

C. Claims and Defenses

Plaintiffs' Remaining Claims

Plaintiffs allege that their federal and state constitutional and common law rights were violated by Defendants' actions on June 21, 2007 and thereafter. Plaintiffs allege under the United States Constitution pursuant to 42 U.S.C. §§ 1983, and New York State law, that the conduct described in the Complaint gave rise to the following claims to be tried, as numbered in Plaintiffs' First Amended Complaint:

- 1) Constitutional Violations under 42 U.S.C. § 1983: violation of Plaintiff's First, Fourth, and Fourteenth Amendment rights including: freedom to engage in protected speech; freedom from arrest without probable cause; freedom from unreasonable seizure of their persons, including the use of excessive force; freedom from false imprisonment; freedom from the lodging of false charges against them by police officers; freedom from malicious prosecution by police officers;

freedom from abuse of process; and freedom from deprivation of liberty without due process of law.¹

2) Failure to Intervene pursuant to Fourth Amendment and 42 U.S.C. § 1983: violation of Plaintiffs' Fourth and Fourteenth rights due to the failure of defendants to assess the constitutionality of interactions between their fellow members of service and civilians and to intervene where they observed another member of the police department employing unjustified and excessive force against civilian(s) and falsely arresting civilian(s), as was their affirmative duty.

5) Respondeat Superior: Defendant CITY is liable for the actions of the individual defendants under the doctrine of *respondeat superior*.

7) False Arrest: defendants unlawfully caused, ordered, approved and/or knowingly failed to prevent plaintiffs' arrest without probable cause or other legal justification.

8) False Imprisonment: Defendants unlawfully caused, ordered, approved and/or knowingly failed to prevent plaintiffs' wrongful detention, thereby depriving them of their liberty without good faith, reasonable suspicion or other legal justification. Plaintiffs were conscious of, and did not consent to, their confinement.

9) Malicious Prosecution: Defendants, acting under color of law, commenced and continued, and/or caused to be commenced and continued, a criminal prosecution against plaintiffs that was lacking in probable cause, instituted in malice, and which ultimately terminated in plaintiffs' favor.

10) Assault and Battery: Defendants wilfully and maliciously touched plaintiffs without their authorization and used physical force on plaintiffs, without just cause, causing physical and emotional injuries.

11) Intentional Infliction of Emotional Distress: Defendant Talvy intentionally, willfully, and knowingly caused plaintiffs to suffer mental and emotional distress, pain and suffering, and damage to name and reputation.

12) Negligent Infliction of Emotional Distress: Defendants negligently caused plaintiffs to suffer mental and emotional distress, pain and suffering, and damage to name and reputation.

Plaintiff's Dismissed Claims

Plaintiffs voluntarily withdrew the following claims, as numbered in Plaintiffs' First Amended Complaint:

1) Violation of the Equal Protection Clause

¹ Plaintiffs dismissed their claim of a violation of their rights to equal protection, privileges and immunities under the law, asserted as part of the first cause of action.

3) Individual Supervisory Liability

6) New York State Constitutional Violations

13) Negligence

Bifurcated Claim

The following claim has been bifurcated and will not be addressed at the May 7, 2012 trial:

4) Monell Claim: under 42 U.S.C. § 1983, violation of Plaintiffs' First, Fourth, Fifth and Fourteenth Amendment rights under *Monell v New York City Department of Social Services*, 436 U.S. 658 (1978), for unlawful policies, practices and procedures.

Defendants' Affirmative Defenses: Defendants respectfully submit that plaintiffs' withdrawal of their negligence claim also includes any claim for negligent infliction of emotional distress. Defendants assert the following affirmative defenses:

Qualified Immunity – to be decided by the court after submission of special interrogatories to the jury, if necessary.

There was probable cause for the arrest and detention of plaintiffs.

At all times, defendants acted reasonably in the exercise of their authority and therefore are entitled to governmental immunity.

Any injury to plaintiffs resulted from their own culpable or negligent conduct, and was not proximately caused by any acts of defendants.

Plaintiffs provoked the incident.

E. Damages

1. Compensatory Damages

Plaintiffs seek Compensatory Damages in the amount of no less than 1,033,649.89, which includes, *inter alia*:

- a. Cost of representation for criminal defense: \$33,500;
- b. Cost of medical treatment otherwise not covered by insurance: Not less than \$1984.17;

- c. Property Damage: \$1165.72, and
- d. \$500,000 each for pain from physical injuries, pain and suffering, and ongoing mental and emotional distress.

2. *Punitive Damages*

Plaintiffs seek punitive damages against the individual defendants in an amount to be determined by the jury.

3. *Attorneys Fees, Costs and Disbursements of this Action:*

Plaintiffs seek attorneys' fees, costs and disbursements of this action in an amount to be determined following the conclusion of the proceedings.

E. Jury Trial

Plaintiff has demanded a trial by jury of all issues raised. The parties reasonably anticipate that the trial of this action will take seven to ten days.

F. Consent to Trial by Magistrate Judge

The parties have not consented to trial of the case by a magistrate judge.

G. Stipulations

Plaintiff's Proposed Stipulations of Fact:

1. On the afternoon of June 21, 2007, plaintiffs Michael and Evelyn Warren were driving their car north on Vanderbilt Avenue in Brooklyn, New York.
2. The Warrens came to a stop at the traffic light at the intersection of Vanderbilt Avenue and Atlantic Avenue.
3. Mr. Warren was given a Desk Appearance Ticket.
4. Mrs. Warren was given a Summons for Disorderly Conduct.

H. Witnesses

Plaintiff's Witness List

1. Michael Warren

Mr. Warren is one of the plaintiff's in this action. He will testify to the wrongful conduct he was subjected to on June 21, 2007 at the hands of the defendant police officers and to the injuries he suffered from that conduct.

2. Evelyn Warren

Ms. Warren is one of the plaintiff's in this action. She will testify to the wrongful conduct she was subjected to on June 21, 2007 at the hands of the defendant police officers and to the injuries she suffered from that conduct.

3. Sergeant Steven Talvy

Sgt. Talvy is one of the defendants in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

4. Officer John Acconi

Officer Acconi is one of the defendants in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

5. Officer Mirabel Sarante

Officer Sarante is one of the defendants in this case and she will testify as to her involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

6. Officer Joseph Tillotson

Officer Tillotson is one of the defendants in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

7. Officer Nicholas Tricarico

Officer Tricarico is one of the police officers involved in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

8. Officer Anthony Carozza

Officer Carozza is one of the defendants in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

9. Officer Devito

Officer Devito is one of the police officers involved in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

10. Officer Margaritis

Officer Margaritis is one of the police officers involved in this case and he will testify as to his involvement in the events on June 21, 2007 that led to the seizure, arrest and prosecution of the plaintiffs.

11. Detective Competiello

Detective Competiello is a detective who investigated the events of June 21, 2007 on behalf of the IAB. He will testify as to what he heard and observed during the course of his investigations.

Defendants object to this witness on the grounds that his testimony would be cumulative, unfairly prejudicial, irrelevant and would, in part, constitute hearsay.

12. Inspector Cosgrove

Inspector Cosgrove interviewed officers regarding the events that took place on June 21, 2007, conducted a post-incident investigation and wrote a report about his findings. He will testify as to what he heard and observed during the course of his investigations.

Defendants object to this witness on the grounds that his testimony would be cumulative, unfairly prejudicial, irrelevant and would, in part, constitute hearsay.

13. Captain Timothy Kelly

Captain Kelly interviewed officers regarding the events that took place on June 21, 2007, conducted a post-incident investigation and wrote a report about the incident. He will testify as to what he heard and observed during the course of his investigations.

Defendants object to this witness on the grounds that his testimony would be cumulative, unfairly prejudicial, irrelevant and would, in part, constitute hearsay.

14. Commander Chief Gerald Nelson

Chief Nelson was the Commander of the 77th Precinct at the time of the incident, and was present at the 77th precinct at the time of the Warrens' arrest, where he spoke with officers including Officer Talvy. He will testify as to what he heard and observed at the precinct and during the course of subsequent investigations.

Defendants object to this witness on the grounds that his testimony would be cumulative, unfairly prejudicial, irrelevant and would, in part, constitute hearsay.

15. Stephanie Niles

Ms. Niles is a witness to the events that took place on June 21, 2007 and she will testify to what she heard and observed on that day. Her last known phone number is (718) 501-9035.

16. Robin McClammy

Ms. McClammy is a witness to the events that took place on June 21, 2007 and she will testify to what she heard and observed on that day. Her last known phone number is (646) 331-5881.

17. Majida Abdul-Karim

Ms. Abdul-Karim is a witness to the events that took place on June 21, 2007 and she will testify to what she heard and observed on that day. .

18. Lisa Jones

Ms. Jones is a witness to the events that took place on June 21, 2007 and she will testify to what she heard and observed on that day. Her last known phone number is (347) 210-1094.

19. Lafette Richard

Ms. Richard is a witness to the events that took place on June 21, 2007 and she will testify to what she heard and observed on that day.

20. Don MonPlaisin

Don MonPlaisin is a witness to the events that took place on June 21, 2007 and he will testify to what he heard and observed on that day.

21. Fred Moody (also known as Fred Martinez)

Mr. Moody is a witness to the events that took place on June 21, 2007 and was arrested on that date. He will testify to what he heard and observed on that day, including how he was treated by the defendant police officers in this case.

Defendants submit that, if permitted at all, Mr. Moody's testimony should be limited to what he saw, heard and did on June 21, 2007, and that he should not be permitted to testify about any monetary settlement with the City or others relating to the events of that day.

22. Melissa St. Fleur

Ms. St. Fleur is an EMT who responded to the scene on June 21, 2007 to treat Fred Moody. She will testify to what she heard and observed on that day.

Defendants object to this witness on the grounds that the testimony would be cumulative, unfairly prejudicial, irrelevant and would, in part, constitute hearsay.

23. Dr. Maxine Orris

Dr. Maxine Orris is a physician who treated Michael and Evelyn Warren. She will testify about the medical treatment she provided and the condition of the Warrens.

24. Dr. Craigh Bryan

Dr. Craigh Bryan is a physician who treated Michael and Evelyn Warren. He will testify about the medical treatment he provided and the condition of the Warrens.

25. Dr. Jeffrey Gardere

Dr. Gardere is a physician who treated Michael and Evelyn Warren. He will testify about the medical treatment he provided and the condition of the Warrens.

26. Dr. Barbara Blum

Dr. Blum is a physician who treated Michael and Evelyn Warren. She will testify about the medical treatment she provided and the condition of the Warrens.

27. Dr. Sanford Drob

Dr. Drob is a clinical and forensic psychologist who evaluated Michael and Evelyn Warren. He will be called as an expert in the field of clinical and forensic psychology to testify about the effects of the events of June 21, 2007 on Mr. and Mrs. Warren.

28. Doctor(s) from Kings County Hospital, if necessary to authenticate medical records.

29. Councilperson Charles Barron.

Councilperson Barron was present at the 77th Precinct on the night of 6/21/77 and observed the condition of Mr. and Mrs. Warren.

Defendants object to this witness on the grounds that he was not present when the Warrens were arrested or subjected to any force, his testimony would be cumulative, unfairly prejudicial and would likely constitute hearsay in whole or in part.

30. Assistant Chief Donald Zeigler

Assistant Chief Zeigler was present at the 77th Precinct on the night of 6/21/77 and observed the condition of Mr. and Mrs. Warren, and interviewed or was present during the interview of some of the officers involved in the arrest, seizure and detention of Mr. and Mrs. Warren.

Defendants object to this witness on the grounds that he was not present when the Warrens were arrested or subjected to any force, his testimony would be cumulative, unfairly prejudicial and would likely constitute hearsay in whole or in part.

31. Marissa Benton of the Legal Aid Society

Ms. Benton was present at the 77th Precinct on the night of 6/21/77 and observed the condition of the Warrens.

Defendants object to this witness on the grounds that she was not present when the Warrens were arrested or subjected to any force, her testimony would be cumulative, unfairly prejudicial and would likely constitute hearsay in whole or in part.

32. Sally O'Brien of WBAI

Ms. Benton was present at the 77th Precinct on the night of 6/21/77 and observed the condition of the Warrens.

Defendants object to this witness on the grounds that she was not present when the

Warrens were arrested or subjected to any force, her testimony would be cumulative, unfairly prejudicial and would likely constitute hearsay in whole or in part.

Plaintiff reserves all rights to present witness testimony at trial as permitted under the Federal Rules of Civil Procedure and the local rules. Plaintiff reserves all rights to present witness testimony at trial by live testimony or by deposition as permitted under the Federal Rules of Civil Procedure and the local rules. Plaintiff reserves all rights to present witness testimony at trial by live testimony if the parties are not able to agree on deposition designations and cross designations. Plaintiff reserves all rights to supplement this witness list if defendants do not stipulate to authenticity of documents, exhibits or electronic data. Plaintiff reserves all rights to call witnesses on defendants' witness list on plaintiff's case in chief and reserve all rights to call rebuttal and impeachment witnesses.

Defendants' Witness List Defendants reserve the right to call any witness listed by plaintiff, above, and reserve all rights to the same extent that plaintiff has done so, above. In addition, defendants reserve the right to call the following witnesses:

Michael Warren – will testify about 6/21/07 incident, claims for damages

Evelyn Warren – will testify about 6/21/07 incident, claims for damages

Steven Talvy – will testify about 6/21/07 incident

John Acconi – will testify about 6/21/07 incident

Maribel Sarante – will testify about 6/21/07 incident

Nicholas Tricarico – will testify about 6/21/07 incident

Steven Margaritis – will testify about 6/21/07 incident

John Devito – will testify about 6/21/07 incident

Joseph Tillotson – will testify about 6/21/07 incident

Anthony Carozza – will testify about 6/21/07 incident

April Davis – will testify about 6/21/07 incident

Bruce Reynolds – will testify about 6/21/07 incident

Jasmine Steadman – will testify about 6/21/07 incident

Plaintiffs object to this witness on the grounds that the testimony would be irrelevant and

cumulative.

EMT Araulky Beltre – will testify about 6/21/07 incident

Plaintiffs object to this witness on the grounds that the testimony would be irrelevant and cumulative.

EMT Richard Rose – will testify about 6/21/07 incident

Plaintiffs object to this witness on the grounds that the testimony would be irrelevant and cumulative.

Damione Warner – will testify about 6/21/07 incident

Plaintiffs object to this witness on the grounds that the testimony would be irrelevant and cumulative.

Ahmad Ramana – will testify about 6/21/07 incident

Plaintiffs object to this witness on the grounds that the testimony would be irrelevant and cumulative.

George Anderson (expert) – will testify about police procedures

Plaintiffs object to this witness on the grounds of lack of expert qualifications and conflict of interest.

Steven Martin, M.D. (expert) – will testify about plaintiffs' alleged damages

Plaintiffs object to this witness on the ground that the witness does not have a proper basis to form an expert opinion.

Michael Aronoff, M.D. (expert) – will testify about plaintiffs' alleged damages

Paul Hymowitz, M.D. (expert) - will testify about plaintiffs' alleged damages

Plaintiffs object to this witness on the ground that the witness does not have a proper basis to form an expert opinion.

I. Deposition Testimony

Plaintiffs Deposition Designations

The plaintiffs do not anticipate any deposition testimony to be offered in their case in chief. The plaintiffs assume that all involved officers, including those listed above as witnesses, will be available for trial. If any officer will not be available or becomes unavailable the plaintiffs request that opposing counsel notify plaintiffs as soon as possible so plaintiffs may designate portions of deposition testimony intended to be offered into evidence. The plaintiffs reserve the right, should any witness become unavailable, to offer that witness's deposition testimony into evidence. The plaintiffs reserve the right to impeach any witness with his or her deposition testimony.

Defendants' Deposition Designations

None at this time.

J . Exhibits

Plaintiff's Exhibit List

Plaintiff's inclusion of items of items on this list indicates that Plaintiff may offer the items as evidence at trial, but also may not offer them at trial.

No.	Description	Bates Nos.	Other Identifying Nos.	Objections and Basis
1.	6 black and white copies of photos of incident location taken on 7/19/2007 by CCRB investigator Foster	Warren 00541-546; NYC 109-114		
2.	Arrest log showing arrest for Fred Moody	Warren 00548		Relevance, cumulative, prejudicial (FRE 403)
3.	Arrest log showing arrest for Michael Warren	Warren 00549		
4.	DA Complaint Room Screening Sheet for Michael Warren	Warren 00550-551		
5.	Notice from DA to PO Acconi	Warren		Relevance,

	regarding Michael Warren stating it is imperative that Acconi contact DA dated 8/2/2007 [<i>case in chief, rebuttal or impeachment</i>]	00554		confuses issues (FRE 403)
6.	Omniform Arrest Form for Freddy Moody [<i>rebuttal or impeachment</i>]	Warren 0059-60		Relevance (FRE 403)
7.	NYPD Mugshot Pedigree from Freddy Moody from 6/21/2007 arrest	Warren 00568; 00788		Relevance, prejudice, confuses issues, cumulative (FRE 403)
8.	Omniform Complaint for Michael Warren	Warren 00011-13; 00031-33; 00573-574		
9.	Omniform Arrests form for Michael Warren	Warren 00009-10; 00029-30; 00576-577		
10.	Summons to Evelyn Warren	Warren 00001-02; 00578-579		
11.	DAT for Michael Warren	Warren 00598; 00706		
12.	PO Acconi Memobook	Warren 00107-108; 00600-601		Relevance, cumulative (FRE 403) – no objection if used to refresh
13.	PO Devito Memobook	Warren 00109-110; 00602-603		Same
14.	PO Margaritis Memobook	Warren 00111-112; 00604-605		Same
15.	Sgt. Talvy Memobook	Warren 00113-115; 00606-608		Same
16.	PO Tillotson Memobook	Warren 00116-117; 00609-610		Same
17.	PO Sarante Memobook	Warren 00104-106;		Same

		00611-614		
18.	6/21/2007 memo from Executive Officer of the 75 th Precinct to Chief of Patrol re the arrest of Michael and Evelyn Warren	Warren 00055-57; 00616-618; 696		Relevance, contains hearsay (FRE 403, 802)
19.	911 call record	Warren 00629		Relevance, contains hearsay
20.	Affidavit of Mirabel Sarante in regards to Fred Moody [rebuttal or impeachment]	Warren 00734-00735		Relevance, cumulative
21.	Testimony of Mirabel Sarante at Freddy Moody's grand jury (redacted) [rebuttal or impeachment]	Warren 00749-00754		Relevance, cumulative
22.	Testimony of Steven Margaritas at Freddy Moody's grand jury (redacted) [rebuttal or impeachment]	Warren 00755-00759		Same
23.	Testimony of Steven Talvy at Freddy Moody's grand jury (redacted) [rebuttal or impeachment]	Warren 00760-764		Same
24.	Testimony of Joseph Tillotson at Freddy Moody's grand jury (redacted) [rebuttal or impeachment]	Warren 00765-00770		Same
25.	Testimony of John Acconi at Freddy Moody's grand jury (redacted) [rebuttal or impeachment]	Warren 00771-00775		Same
26.	NYPD IAB Investigating Officer's Report re interview of Sgt. Steven Talvy	Warren 00795-796; NYC 210-211		Same
27.	NYPD IAB Investigating Officer's Report re interview of Officer Tillotson	Warren 00797-798		Same
28.	NYPD IAB Investigating Officer's Report re interview of Officer Carozza	Warren 00799-800		Same
29.	NYPD IAB Investigating Officer's Report re interview of Margaritis	Warren 00801-802		Same
30.	NYPD IAB Investigating Officer's Report re interview of Tricarico	Warren 00803-804		Same
31.	NYPD IAB Investigating Officer's Report re interview of Devito	Warren 00805-806		Same
32.	NYPD IAB Investigating Officer's Report re interview of PO Acconi	Warren 00807-808		Same
33.	Checks from Evelyn Warren to Dr. Jeffrey Gardner	Warren 00900		
34.	Article by Amadi Ajumu with color photograph of Warrens	Warren 00901		Relevance, Hearsay

35.	Criminal Complaint for Michael Warren signed by P.O. Acconi	Warren 00003		
36.	CCRB Officer History for Officer Carozza, printed 8/31/2007	Warren 00046-00049		Relevance (FRE 403, 404(b))
37.	CCRB Officer History for Officer Sarante, printed 8/31/2007	Warren 00046-00049		
38.	CCRB Officer History for Officer Tricarico, printed 8/31/2007	Warren 00046-00049		
39.	IAB Officer Resume for Mirabel Sarante printed 8/30/2007	Warren 00063-64		same
40.	IAB Officer Resume for Nicholas Tricarico printed 8/30/2007	Warren 00065-66		Same
41.	CCRB Officer History for Sgt. Talvy printed 8/24/2007	Warren 00071-072		Same
42.	CCRB Officer History for John Acconi printed 8/24/2007	Warren 00073		Same
43.	CCRB Officer History for Tillotson printed 8/24/2007	Warren 00074		Same
44.	Subject/witness officers and summary of Internal Affairs Bureau Log No. 07-24215	Warren 00120-00122-2		Relevance, contains hearsay
45.	IAB Investigating Officers Report dated 6/22/07	WARREN 00127-00130; NYC 136-139		Same
46.	Memo from Det. Mario Corletto of IAB group 34 to Capt. Ricciardi of CO Group 34 re Sgt. Talvy's record, dated June 25, 2007	Warren 00136		Relevance (FRE 403, 404(b))
47.	IAB Investigating Officer's Report dated 7/19/2007 re interview with EMT St. Fleur	WARREN 00213; NYC 191		Same
48.	IAB Log #07-23864, OG #0700334, Comp: Michael Warren [rebuttal or impeachment]	WARREN 00272-00276; WARREN 00833-00837; NYC 195-197		Relevance, hearsay
49.	Letters from CCRB to Evelyn Warren re findings	Warren 00282-284		Hearsay if offered by

				plaintiffs
50.	Letter from CCRB to Michael Warren re findings	Warren 00279-00281		
51.	Bill for Professional Services Rendered from Susan V. Tipograph	Warren 00426		
52.	Bill for Services from Jill Elijah, Esq.	Warren 00427		
53.	Patient records of Evelyn Warren from Long Island College Hospital (Dr. Maxine Orris)	WARREN 00428-432; NYC 000001-000004	Defendants Exhibits A and A-1 to Dr. Orris Deposition	Defendants object to all hearsay statements on plaintiffs' case-in-chief except those necessary to medical treatment
54.	Patient records of Michael Warren from Long Island College Hospital (Dr. Maxine Orris)	WARREN 00433-437; NYC	Defendants Exhibit D to Dr. Orris Deposition	Same
55.	Records for Evelyn Warren for Kings County Hospital Center	Warren 00438-453;		Same
56.	Records from Michael Warren for Kings County hospital center	Warren 00454-477;		Same
57.	Michael Warren's records from Dr. Craigh Bryan <i>[subject to further review by plaintiffs to ensure that no duplicates are introduced]</i>	NYC 080303-080449; NYC 081377-081530; Warren 00925-956		Same
58.	Evelyn Warren's medical records from Craigh Bryan <i>[subject to further review by plaintiffs to ensure that no duplicates are introduced]</i>	NYC 080685-080736; Warren 00478-514; NYC 081377-081530		Same
59.	Bill for legal services from Roger Wareham	Warren 00536		
60.	One page of notes from D. Barbara L. Blum re Michael Warren	Warren 00538		Hearsay if offered by

				plaintiffs
61.	Records from Dr. Jeffrey R. Gardere re treatment of Evelyn Warren	Warren 00902-911	Exhibits B and C to Gardere deposition	Same as #54
62.	Notes of Evelyn Warren	Warren 01815-1816		Hearsay if offered by plaintiffs
63.	Receipt for Mont Blanc pen	Warren 01828		
64.	Receipt for prescription sun glasses	Warren 01829		
65.	Dr. Orris handwritten notes re Michael Warren	01833-1838		Same as #54
66.	Dr. Orris handwritten notes re Evelyn Warren	01839-01841		Same
67.	Dr. Barbara Blum's notes regarding Michael Warren--includes handwritten notes and bills	WARREN 01833 confidential -01872 confidential	Exhibits A, B, and C to Blum Deposition; Notes produced by Dr. Blum at her deposition	Same
68.	Copy of DSM IV Criteria for Post traumatic Stress Disorder		Referred to in Dr. Blum deposition	Relevance
69.	Billing statements from Dr. Barbara Blum	WARREN 01847; NYC 80737-739; 081531-553	Defense Exhibit Q for Michael Warren's deposition	
70.	Letter from Susan Scharfstein 10/7/2010 with answers to second set of interrogatories.			Objection to letter (relevance)
71.	6 Photographs of Michael Warren		Numbered as photos 1-5 and 7 in disclosure of 4/8/2009	
72.	2 Photographs of Evelyn Warren		Numbered as photos 1 and 3 in disclosure of 4/22/2009	
73.	Letter from Dr. Barbara Blum re condition of Michael Warren	NYC 000049		

74.	Court records from Kings County (list of appearances, docket sheet, charges for Michael Warren)	NYC 00050, 00057, 00054-00057		
75.	CCRB Interview Sheet for interview of Sgt Talvy	NYC 207-209		Relevance, cumulative
76.	CCRB Interview Sheet for interview of John Acconi	NYC 219-221		Same
77.	CCRB Interview Summary of interview with Tillotson	NYC 229-232		Same
78.	CCRB Summary of Interview with Tricarico	NYC 237-238		Same
79.	CCRB Summary of Interview with Sarante	NYC 246-248		Same
80.	CCRB Summary of Interview with Carozza	NYC 252-253		Same
81.	CCRB Summary of Interview with Devito	NYC 259-260		Same, hearsay (not an admission)
82.	CCRB Summary of Interview with Margaritas	NYC 268-269		Same as #81
83.	WebCrims Documents showing Court dates for Michael Warren	NYC 287-289		
84.	WebCrims Documents showing Court dates for Evelyn Warren	NYC 290-292		
85.	Memorandum from CCRB to Police Commissioner re incident.	NYC 515-516		Relevance, contains hearsay, prejudice (FRE 403, 404(b))
86.	Letter from State of New York Division of Criminal Justice Services stating that Michael Warren has no criminal history record information	NYC 000058		Relevance, hearsay
87.	Letter from State of New York Division of Criminal Justice Services stating that Evelyn Warren has no criminal history record information	NYC 000059		Same as #86
88.	Copy of Evelyn Warren's driver's license and list of her property	NYC 000060		
89.	Redacted CCRB history for Margaritas 8/31/2009	NYC 21579-81		Relevance, prejudice (FRE 403,

				404(b))
90.	CCRB history for Acconi on 3/31/2007	NYC 21596		Same
91.	Police Student's Guide on Use of Force p. 7	NYC 21761		Relevance
92.	Police Student's Guide on Use of Force p. 16-17	NYC 21762-63		Same
93.	IAB Investigating Officer's Report re Anthony Carozza	NYC IAB 1-2		Relevance, cumulative
94.	IAB Investigating Officer's Report re Steven Talvy	NYC IAB 37-38		Same
95.	IAB Investigating Officer's Report re Tillotson	NYC IAB 39-40		Same
96.	IAB Investigating Officer's Report re Maribel Sarante	NYC IAB 41-42		Same
97.	IAB Investigating Officer's Report re John Acconi	NYC IAB 45-46		Same
98.	Redacted CCRB Officer history for Talvy 6/25/2007	NYC IAB 190		Relevance, prejudice (FRE 403, 404(b))
99.	Personnel Records for Steven Talvy, including personnel profile and IAB Comprehensive History	NYC IAB 191-214		Same
100.	Personnel Profile for John Acconi	NYC IAB 216-219		Same
101.	Personnel Profile for Mirabel Sarante	NYC IAB 220-229		Same
102.	IAB Comprehensive Officer History for Anthony Carozza	NYC IAB 223-259		Same
103.	Personnel Profile for Anthony Carozza	NYC IAB 260-266		Same
104.	IAB Comprehensive Officer Report for Tillotson	NYC IAB 328-358		Same
105.	Personnel Profile for Tillotson	NYC IAB 359-368		Same
106.	Comprehensive Officer History for Maribel Sarante	NYC IAB 370-382		Same
107.	Personnel Profile for Maribel Sarante	NYC IAB 383-392		Same
108.	Comprehensive Officer History for Acconi	NYC IAB 394-432		Same
109.	P.G. 202-21 Police Officer	NYC 004001-4002		Relevance
110.	P.G. 203-11 Use of Force	NYC 004003-		Relevance

		4004; 021007- 021008; 21927		
111.	P.G. 208-03 Arrests--General Processing	NYC 004009- 4019		Relevance
112.	P.G. 104-01 General Regulations	NYC 004062- 4072		Relevance
113.	P.G. 110-2 Arrests-General	NYC 004076- 004090; 4092		Relevance
114.	Memo of the NYPD “Uniformed Members of the Services on Force Monitoring”	WARREN 01768-1770		Relevance, prejudice
115.	NYPD Supervisor’s Guide Monitoring and Assistance Programs	WARREN 01771-1778		Same
116.	Stipulation and Order from Black et al. v. Michael Codd et al. regarding onlookers	WARREN 01241-1243		Same
117.	Interim Order No. 27 “Observers at the Scene of Police Incidents”	WARREN 01244		Same
118.	Interim Order No. 40 “Observers at the Scene of Police Incidents”	WARREN 01245		Same
119.	NYPD Personnel Inquiry for Sgt. Talvy	NYC 001002		Relevance
120.	Memo from Commanding Officer, Group #34, IAB, to Chief of Internal Affairs Bureau, dated 9/3/2008, re IAB investigation	NYC 001104- 1109		Same
121.	Memo from Commanding officer, 77 precinct to Chief of Patrol, dated 6/24/2007	NYC 001123- 1124		Relevance, contains hearsay
122.	Form of Oath of Officer Carozza	NYC 002001		
123.	Oath of Sgt. Talvy	NYC 002015		
124.	Oath of Tillotson	NYC 002097		
125.	Oath of Officer Sarante	NYC 002061		
126.	Oath of John Anthony Acconi	NYC 002077		
127.	CCRB Recorded interview of Sgt.		Tape labeled	Relevance,

	Talvy [<i>case in chief or impeachment</i>]		200708928-- Copy Sgt. Talvy: 12/6/07 CCRB	cumulative, if played in its entirety
128.	CCRB Recorded interview of Officer Cardozza [<i>case in chief or impeachment</i>]		Tape labeled 200708928-- Copy 16 P.O. Cardo	Same
129.	CCRB Recorded interview of Officer Acconi [<i>case in chief or impeachment</i>]		Tape labeled 200708928-- Copy P.O. Acconi 15	Same
130.	CCRB Recorded interview of Officer Sarante [<i>case in chief or impeachment</i>]		Tape labeled 200708928 (13) P.O. Sarante	Same
131.	CCRB Recorded interview of Officer Tillotson [<i>case in chief or impeachment</i>]		Tape labeled 200708928-- Copy 17 P.O. Tillotson CCRB 1-25-0	Same
132.	CCRB Recorded interview of Officer Devito [<i>case in chief or impeachment</i>]		Tape labeled 200708928-- Copy P.O. Davito 14A	Same
133.	CCRB Recorded interview of Officer Tricarico [<i>case in chief or impeachment</i>]		Tape labeled 200708928 Copy P.O. Tricarico	Same
134.	CCRB Recorded interview of Officer Margaritis [<i>case in chief or impeachment</i>]		Tape labeled 200708928 (18) CCRB P.O. Margaritis 1- 29-08	Same
135.	IAB Recorded interview of Sgt Talvy [<i>case in chief or impeachment</i>]		Tape labeled 200708928-- Copy Tape from IAB PG SGT LOG # 07-23864	Same
136.	IAB Recorded interview of Officer Sarante [<i>case in chief or impeachment</i>]		Tape labeled P.G. P.O. Sarante Log # 07-23864	Same

			200708928-- Cop	
137.	IAB Recorded interview of Officer Acconi <i>[case in chief or impeachment]</i>		Tape labeled 200708928 Tape from IAB P.G. P.O. Acooni Log# 07-23864	Same
138.	IAB Recorded interview of Officer Carozza <i>[case in chief or impeachment]</i>		Tape labeled P.G. P.O. Carozza 07-23864/200708928	Same
139.	IAB Recorded interview of Officer Tillotson <i>[case in chief or impeachment]</i>		Tape labeled 200708928 Tape from IAB PG P.O. Tillson Log# 07-2386	Same
140.	IAB Recorded interview of Officer Devito <i>[case in chief or impeachment]</i>		Tape labeled 200708928 CCRB P.G. Devito Log#07-00334	Same
141.	IAB Recorded interview of Officer Margaritis <i>[case in chief or impeachment]</i>		Tape labeled PG Margaritis NYC AC 090/2-04	Same
142.	Audio Recordings of radio transmissions made by officers on scene			Same
143.	Audio Recording of 911 call made by Evelyn Warren			
144.	Letter from Dr. Alice Wei MD to Dr. Burroughs re Michael Warren	NYC 081025	Exhibit E to Dr. Bryan Deposition	Same as #54
145.	Bills from Dr. Drob and proof of payment			
146.	Letter from Dr. Gardere certifying he is Evelyn Warren's treating psychologist.			
147.	Michael Warren's records from Dr. Valentine Burroughs	NYC 080001-080225; 080566-080684;		Same as #54

		080977- 081089		
148.	Evelyn Warren's records from Dr. Valentine Burroughs	NYC 080226- 080302; 080495- 080565; 080907-976		Same as #54
149.	Google Maps photograph of 520 Vanderbilt Ave		Defense Exhibit B for Michael Warren's deposition	
150.	Photograph of McDonalds		Defense Exhibit C for Michael Warren's deposition	
151.	Photograph of McDonalds		Defense Exhibit D for Michael Warren's deposition	
152.	Photograph of Intersection		Defense Exhibit E for Michael Warren's deposition	
153.	Photograph of McDonalds		Defense Exhibit F for Michael Warren's deposition	
154.	Google maps aerial view of Vanderbilt and Atlantic, Brooklyn NY		Defense Exhibit G for Michael Warren's deposition	
155.	Google maps aerial view of Vanderbilt and Atlantic, Brooklyn NY		Defense Exhibit H for Michael Warren's deposition	
156.	Google maps aerial view of Vanderbilt and Atlantic, Brooklyn NY, with markings		Defense Exhibit I for Michael	

			Warren's deposition	
157.	Photographs of the scene of the incident		Defense Exhibit A for Evelyn Warren's deposition	
158.	Google Map of the scene of the incident		Defense Exhibit B for Evelyn Warren's deposition	
159.	NYPD request to IAB for records check for arrest photos and arrest photos of Fred Moody	Warren 00569-570		Relevance, prejudice (FRE 403)
160.	CCRB Complaint Report dated 8/24/2007 [<i>rebuttal or impeachment</i>]	Warren 00067-70; 00250-253; 00838-841 (redacted)		Same
161.	CCRB IA Detailed Description re conversation with Lafette Richard dated 6/28/2007 [<i>rebuttal or impeachment</i>]	Warren 00080; 00238		Relevance, prejudice, contains hearsay
162.	CCRB interview sheet for Lafette Richard [<i>rebuttal or impeachment</i>]	Warren 00084-87; 00239-242		Same
163.	Summary of interview with Amed Ramada contained in CCRB IA Detailed Description re canvass of the area surrounding the incident(dated 7/19/2007) [<i>impeachment</i>]	Warren 00088-89; 00246-247		Same
164.	CCRB IA Detailed Description re calls to IAB from Lafette Richard, Judith Ackerman , and "Ashley"	WARREN 00091; WARREN 00249; NYC 125		Same
165.	CCRB IA Detailed Description re interview with Majida Abdul-Karim dated 8/6/2007	Warren 00092		Same
166.	IAB Investigating Officers Report dated 7/12/2007 re interview with April Davis [<i>rebuttal or impeachment</i>]	Warren 00142-143; 00809-810 (redacted)		
167.	IAB Investigating Officers Report	Warren		Relevance,

	dated 7/13/2007 re interview with Lafette Richard	00147-148		prejudice, contains hearsay
168.	IAB Investigating Officer's Report dated 7/13/2007 re interview of April Davis <i>[rebuttal or impeachment]</i>	Warren 00157		
169.	CCRB IA Detailed Descriptions for interview with Lafayette Richard	NYC 157- 160		Relevance, prejudice, contains hearsay
170.	Expert report from City's Expert Dr. Aronoff <i>[rebuttal or impeachment]</i>			Expert reports not admissible; no objection if used to impeach
171.	Expert report from City's Expert Dr. Hymowitz <i>[rebuttal or impeachment]</i>			Same
172.	Recorded calls from witnesses Lafayette Richard and Judith Ackerman			Relevance, prejudice, contains hearsay
173.	Google Map(s) of the scene of the incident			
174.	Google Aerial/Satellite view(s) of the scene of the incident			
175.	Criminal Disposition of Michael Warren	NYC 000050		
176.	Response to CCRB request for records and information, from Chief of Internal Affairs Bureau to Commanding Officer 077	NYC 000640		Relevance, prejudice (FRE 403)
177.	Settlement Document in Fred Moody v. City of New York		Exhibit 9 at Talvy deposition	Relevance, prejudice, settlements inadmissible (FRE 403, 408)
178.	Interview of Fred Moody on 6/21/2007		Tape labeled "CALL-OUT #38 of 2007 6/21/07 77 PCT	
179.	Order to Show Cause and Supporting Petition in <i>In the Matter of Michael Warren for a Judgment Under Article</i>			

	78 against The New York City Police Department et al., Index No. 07/109360 of the Supreme Court of the State of New York in the County of New York			
180.	CCRB interview of Laffette Richards		Tape Labeled 200708928- Copy 4A 7-17-07 L. Richards CCRB	
181.	Recorded calls of CCRB to April Davis [impeachment]		Tape Labeled 200708928- Copy Warren Final Calls April Davis Justin Sandy 3-5-08	
182.	Recorded calls of CCRB to April Davis [impeachment]		Tape labeled 200708928-- Copy 11 Calls Bruce Reynolds, April Davis	
183.	Recorded calls of CCRB to Bruce Reynolds [impeachment]		Tape labeled 200708928-- Copy 11 Calls Bruce Reynolds, April Davis	
184.	IAB Investigating Officer's Report dated 7/14/2007 re interview of Bruce Reynolds [impeachment]	Warren 00174-175		
185.	IAB Investigating Officer's Reports re Jasmine Steadman [impeachment]	Warren 000227-228		
186.	IAB Investigating Officer's Report dated 7/17/2007 re interview with EMT Rose [impeachment]	WARREN 00202; NYC 194		
187.	IAB Investigating Officer's Report dated 7/18/2007 re interview with EMT Beltre [impeachment]	WARREN 00207-00208; NYC 188-189		
188.	IAB Investigating Officer's Report dated 7/13/2007 re Ahmad Ramada [impeachment]	Warren 00150-00151;		

		NYC 202-203		
189.	IAB Investigating Officer's Report dated 7/16/2007 re Damione Warner <i>[impeachment]</i>	WARREN 00185-186; NYC 192-193		
190.	IAB Investigating Officer's Report re Damione Warner criminal history	NYC IAB 60		

Plaintiff reserves all rights to present exhibits at trial as permitted under the Federal Rules of Civil Procedure and the local rules. Plaintiff reserves all rights to designate additional exhibits if defendants do not stipulate to authenticity of documents or electronic data. Plaintiff reserves all rights to use documents and exhibits for impeachment, rebuttal and otherwise, separate and apart from those listed above. Plaintiff reserves the right to use all or any portion of a listed exhibit. Plaintiff reserves all rights with respect to demonstrative trial exhibits.

Defendants' exhibit list: Defendants reserve the right to use any exhibit listed by plaintiff, and reserve all rights to the same extent that plaintiffs have done so, above. Defendants further state that they may introduce into evidence news articles, news conferences or videotapes of news programs (listed below), but only to the extent that witnesses testifying at trial (live or through other means) are quoted or gave statements. Defendants also reserve the right to use as impeachment evidence any and all public statements made by Michael or Evelyn Warren, or any other witness, concerning the events at issue in this lawsuit, or any matter related thereto.

A	<i>People v. Moody</i> , Docket # 5968/07 – Certificate of Disposition			Relevance, prejudice, not produced during discovery
B	<i>People v. Moody</i> , Docket # 5968/07 – Plea Allocution			Hearsay, relevance, prejudice, not produced during discovery
C	<i>People v. Moody</i> , Docket # 5968/07 – NYS State DCJS Warrant Search (Moody) showing multiple outstanding bench warrant(s)			Relevance, prejudice, not produced during discovery
D	Video surveillance footage of			Relevance,

	MacDonald's parking lot			prejudice
E	IAB Worksheet # 44	NYC IAB 0053		Relevance, prejudice
F	IAB Worksheet re Interview of Bruce Reynolds	NYC IAB 72-73		Hearsay
G	IAB Worksheet re Re-interview with April Davis	NYC IAB 89-90		Hearsay
H	IAB Worksheet re Canvass of Incident Location (to the extent that the document memorializes a statement by Ahmad Ramada)	NYC IAB 95-96		Hearsay, relevance, cumulative
I	All postings or pages from the website www.justiceforwarrens.org			Hearsay, relevance, prejudice
J	Dr. Blum medical note	Warren 00538		
K	WWOR interview of Warrens	Warren 00533-35 (letter & certificate)		Plaintiffs object to letters K-Q, X, T, and CC except to the extent that the interview or article contains a direct quotation or recorded statement of plaintiffs about the incident
L	NY Daily News article (June 25, 2007)	NYC 77		Same
M	“Apartheid Americana” by Susie Day	NYC 85-87		Same
N	“People Get Ready” – Amsterdam News, Aug. 16-22, 2007	NYC 89-90		Same
O	“Day of Outrage” – Amsterdam News	NYC 91-92		Same
P	Our Time Press – news article	NYC 81-83		Same
Q	Interview of Michael and Evelyn Warren – TotalBlackTV.com			Same
R	Statement of Freddy Moody	NYC 143		Hearsay
S	Letter from Evelyn Warren to CCRB Investigator Foster	NYC 163		Relevance, prejudice
T	Statement by Evelyn Warren to			Same as

	WNYC's "Brian Lehrer" show			objection to K
U	Summary of Statement by Evelyn Warren to WNYC's "Brian Lehrer" show	NYC 166		Hearsay
V	Letter from Michael Warren to CCRB Investigator Foster	NYC 169		Relevance, prejudice
W	Telephone statement of Bruce Reynolds to CCRB – written summary and recording	NYC 177-78		Hearsay
X	Michael & Evelyn Warren interview on the program "Like It Is"			Same as objection to K
Y	Complaint			
Z	Amended Complaint			
AA	All medical records of Michael and Evelyn Warren to the extent not already listed in this order			Plaintiffs object to the admission of any irrelevant medical records
BB	Notice of Claim			
CC	WBAI interview of the Warrens on 6/21/07 (recorded)			Same as objection to K

Dated: New York, New York

April 2, 2012

S/	S/
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